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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2010-345

14 **SHARON MCMULLEN ANTHONY**
15 **495 Joy Lane, Apt. 4**
Hallsville, TX 75650

A C C U S A T I O N

16 **Registered Nurse License No. 639425**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs.

24 **License History**

25 2. On or about July 6, 2004, the Board of Registered Nursing issued Registered Nurse
26 License Number 639425 to Sharon McMullen Anthony (Respondent"). The license was in full
27 force and effect at all times relevant to the charges brought herein and expired on
28 December 31, 2007.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code"), unless otherwise indicated.

4. Code section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Code section 118, subdivision (b), provides that the suspension, expiration, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or

7. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

8. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and

1 Safety Code or any dangerous drug or dangerous device as defined in Section
2 4022.

3 (b) Use any controlled substance as defined in Division 10 (commencing
4 with Section 11000) of the Health and Safety Code, or any dangerous drug or
5 dangerous device as defined in Section 4022, or alcoholic beverages, to an
6 extent or in a manner dangerous or injurious to himself or herself, any other
7 person, or the public or the extent that such use impairs his or her ability to
8 conduct with safety to the public the practice authorized by his or her license.

9 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
10 unintelligible entries in any hospital, patient, or other record pertaining to the
11 substances described in subdivision (a) of this section.

12 9. Health and Safety Code Section 11173, subdivision (a), provides that no person shall
13 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
14 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
15 or subterfuge; or (2) by the concealment of a material fact.

16 REGULATORY PROVISIONS

17 10. California Code of Regulations, title 16, section 1442, states:

18 As used in Section 2761 of the code, 'gross negligence' includes an
19 extreme departure from the standard of care which, under similar
20 circumstances, would have ordinarily been exercised by a competent registered
21 nurse. Such an extreme departure means the repeated failure to provide nursing
22 care as required or failure to provide care or to exercise ordinary precaution in a
23 single situation which the nurse knew, or should have known, could have
24 jeopardized the client's health or life.

25 COST RECOVERY

26 11. Code section 125.3 provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licentiate found to have committed a violation or violations of
28 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case.

12 DRUGS

13 "Benadryl" is an antihistamine, and a dangerous drug within the meaning of Code section
14 4022, in that it may require a prescription under federal law.

15 ///

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17 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Diversion, Obtained and Self-Administration of a Dangerous Drug)**

3 13. Respondent is subject to disciplinary action pursuant to Code section 2761,
4 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
5 subdivision (a), in that between January 19, 2006 and February 6, 2006, while employed by
6 On Assignment Nurse Travel and working as a registered nurse in the Emergency Room at
7 Sierra View District Hospital in Porterville, California, Respondent committed the following acts:

8 a. Respondent obtained Benadryl by fraud, deceit, misrepresentation, or subterfuge, in
9 violation of Health and Safety Code section 11173, subdivision (a), as follows: Between
10 January 19, 2006 and February 6, 2006, as more fully set forth below, Respondent removed
11 various quantities of Benadryl from the hospital's MedSelect dispensing system for patients
12 without a physician's order authorizing the medication for the patients. Furthermore, Respondent
13 failed to chart the administration of the drug in the patient's Patient Care Record, failed to
14 document the wastage of the drug, or falsified or made grossly incorrect, grossly inconsistent, or
15 intelligible entries in the records to conceal her diversion of the dangerous drug.

16 b. Between January 19, 2006, and February 6, 2006, Respondent self-administered
17 unknown quantities of Benadryl without lawful authority.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Incorrect and/or Inconsistent Entries in Hospital and/or Patient Records)**

20 14. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
21 on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (e), in
22 that while on duty as a registered nurse in the Emergency Room at Sierra View District Hospital
23 in Porterville, California, Respondent made grossly incorrect or grossly inconsistent entries in
24 hospital and/or patient records, as follows:

25 **Patient A**

26 a. On January 19, 2006, at 0239 hours, Respondent withdrew one 50 mg. vial of
27 Benadryl, a dangerous drug, from the hospital's MedSelect dispensing system for this patient
28 when the patient was not in the Emergency Room and without a physician's order therefore.

1 Respondent failed to chart the administration of the Benadryl in any Patient Care Record and
2 failed to account for the wastage or disposition of the Benadryl in any patient record or other
3 hospital record.

4 Patient B

5 b. On January 21, 2006, at 0210 and 0243 hours, Respondent withdrew each time one
6 50 mg. vial of Benadryl, a dangerous drug, from the hospital's MedSelect dispensing system for
7 this patient without a physician's order therefore. At 0205, Respondent charted the
8 administration of 50 mgs. of Benadryl in the Patient Care Record. However, Respondent failed to
9 account for the wastage or disposition of the remaining 50 mgs. of Benadryl in any patient record
10 or other hospital record.

11 Patient C

12 c. On January 24, 2006, at 0322 hours, Respondent withdrew one 50 mg. vial of
13 Benadryl, a dangerous drug, from the hospital's MedSelect dispensing system for this patient
14 without a physician's order therefore. Respondent failed to account for the wastage or disposition
15 of the 50 mgs. of Benadryl in any patient record or other hospital record.

16 Patient E

17 d. On January 25, 2006, at 0205 hours, Respondent withdrew one 50 mg. vial of
18 Benadryl, a dangerous drug, from the hospital's MedSelect dispensing system for this patient
19 without a physician's order therefore. Respondent failed to account for the wastage or disposition
20 of the 50 mgs. of Benadryl in any patient record or other hospital record.

21 Patient F

22 e. On January 25, 2006, at 1232, 0103, and 0607 hours, Respondent withdrew each time
23 one 50 mg. vial of Benadryl, a dangerous drug, from the hospital's MedSelect dispensing system
24 for this patient without a physician's orders therefore. Respondent failed to account for the
25 wastage or disposition of the three vials of Benadryl in any patient record or other hospital record.

26 Patient G

27 f. On January 26, 2006, at 0204 hours, Respondent withdrew one 50 mg. vial of
28 Benadryl, a dangerous drug, from the hospital's MedSelect dispensing system for this patient

1 without a physician's order therefore. Respondent failed to account for the wastage or disposition
2 of the one vial of Benadryl in any patient record or other hospital record.

3 Patient H

4 g. On January 26, 2006, at 0306 hours, Respondent withdrew one 50 mg. vial of
5 Benadryl, a dangerous drug, from the hospital's MedSelect dispensing system for this patient
6 without a physician's order therefore. Respondent failed to account for the wastage or disposition
7 of the one vial of Benadryl in any patient record or other hospital record.

8 Patient I

9 h. On February 3, 2006, at 0449 hours, Respondent withdrew one 50 mg. vial of
10 Benadryl, a dangerous drug, from the hospital's MedSelect dispensing system for this patient
11 without a physician's order therefore. Respondent failed to account for the wastage or disposition
12 of the one vial of Benadryl in any patient record or other hospital record.

13 Patient J

14 i. On February 3, 2006, at 0512 and 0628 hours, each time Respondent withdrew one
15 50 mg. vial of Benadryl, a dangerous drug, from the hospital's MedSelect dispensing system for
16 this patient without a physician's order therefore. Respondent failed to account for the wastage or
17 disposition of the two vials of Benadryl in any patient record or other hospital record.

18 Patient N

19 j. On February 4, 2006, at 1258 hours, Respondent withdrew one 50 mg. vial of
20 Benadryl, a dangerous drug, from the hospital's MedSelect dispensing system for this patient
21 without a physician's order therefore. Respondent failed to account for the wastage or disposition
22 of the one vial of Benadryl in any patient record or other hospital record.

23 Patient P

24 k. On February 6, 2006, at 0224 hours, Respondent withdrew one 50 mg. vial of
25 Benadryl, a dangerous drug, from the hospital's MedSelect dispensing system for this patient
26 without a physician's order therefore. Respondent failed to account for the wastage or disposition
27 of the one vial of Benadryl in any patient record or other hospital record.

28 ///

1 Patient Q

2 l. On February 6, 2006, at 0354 hours, Respondent withdrew one 50 mg. vial of
3 Benadryl, a dangerous drug, from the hospital's MedSelect dispensing system for this patient
4 without a physician's order therefore. Respondent failed to account for the wastage or disposition
5 of the one vial of Benadryl in any patient record or other hospital record.

6 Patient R

7 m. On February 6, 2006, at 0523 hours, Respondent withdrew two 50 mg. vials of
8 Benadryl, a dangerous drug, from the hospital's MedSelect dispensing system for this patient
9 without a physician's order therefore. Respondent failed to account for the wastage or disposition
10 of the two vials of Benadryl in any patient record or other hospital record.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Out-of-State Discipline)**

13 15. Respondent is subject to disciplinary action under Code section 2761, subdivision
14 (a)(4), on the grounds of unprofessional conduct, in that Respondent was disciplined by the Texas
15 Board of Nursing ("Texas Board") and Louisiana State Board of Nursing ("Louisiana Board"), as
16 follows:

17 Louisiana State Board of Nursing

18 a. Effective July 23, 2008, Respondent's Registered Nurse's license was suspended and
19 Respondent was ordered to cease and desist the practice of nursing in Louisiana.

20 The underlying circumstances of the suspension are that on July 8, 2008, the Recovery
21 Nurse Program (RNP) reported to the Board that Respondent was not in compliance with the
22 program, as a result of the following:

- 23 • On March 23, 2008, Respondent entered the RNP for sedative/hypnotic dependence
- 24 after she was terminated from her employment for diverting IV Benadryl.
- 25 • On June 11, 2008, Respondent reported to the Board that she had relapsed on Somar
- 26 that she took from her employer.
- 27 • On June 12, 2008, Respondent was sent a new four year agreement, including that she
- 28 complete an inpatient evaluation.

IN THE MATTER OF	§	BEFORE THE ELIGIBILITY
PERMANENT CERTIFICATE	§	AND DISCIPLINARY
NUMBER 623131	§	COMMITTEE
ISSUED TO	§	OF THE TEXAS
SHARON MCMULLEN ANTHONY	§	BOARD OF NURSING

ORDER OF THE BOARD

TO: Sharon McMullen Anthony
717 Lawrence Dr.
Haughton, LA 71037

During open meeting held in Austin, Texas, on June 9, 2009, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case. This case was heard, and based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee of the Texas Board of Nursing finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, chapter 301 of the Texas Occupations Code, for retention of Respondent's license to practice professional nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Eligibility and Disciplinary Committee, after review and due consideration, adopts the

proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing (22 TEX. ADMIN.CODE § 213.2(j)). All parties have a right to judicial review of this Order.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 623131, previously issued to SHARON MCMULLEN ANTHONY, to practice professional nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 623131, previously issued to SHARON MCMULLEN ANTHONY, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privilege, if any, to practice professional nursing in the State of Texas.

Entered this 9th day of June, 2009.

TEXAS BOARD OF NURSING

BY:



KATHERINE A. THOMAS, MN, RN

EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

Re: Permanent Certificate Number 623131
Issued to SHARON MCMULLEN ANTHONY
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of June, 2009, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

Sharon McMullen Anthony
717 Lawrence Dr.
Haughton, LA 71037

BY:

Katherine A. Thomas
KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

In the Matter of Permanent License § **BEFORE THE TEXAS**
Number 623131, Issued to §
SHARON MCMULLEN ANTHONY, Respondent § **BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, SHARON MCMULLEN ANTHONY, is a Registered Nurse holding license number 623131, which is in delinquent status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

CHARGE I.

On or about October 22, 2008, Respondent's license to practice professional nursing in the State of Louisiana was SUSPENDED by the Louisiana State Board of Nursing, Baton Rouge, Louisiana. A copy of the Findings of Fact, Conclusions of Law, and Final Order dated October 22, 2008, is attached, and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(8), Texas Occupations Code.

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of revocation of Respondent's license to practice nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to § 301.461, TEX. OCC. CODE ANN. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, www.bon.state.tx.us.

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Used Disorder and Fraud, Theft & Deception which can be found at the Board's website, www.bon.state.tx.us.

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Orders which is/are attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Louisiana State Board of Nursing Final Order dated October 22, 2008.

Filed this 20th day of April, 2009.

TEXAS BOARD OF NURSING

Jane Abel
James W. Johnston, General Counsel
Board Certified - Administrative Law
Texas Board of Legal Specialization
State Bar No. 10838300

Jena Renee Koslan Abel, Assistant General Counsel
State Bar No. 24036103

Robert Kyle Hensley, Assistant General Counsel
State Bar No. 50511847

John F. Legris, Assistant General Counsel
State Bar No. 00785533

TEXAS BOARD OF NURSING
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701
P: (512) 305-6824
F: (512) 305-8101 or (512) 305-7401

Attachments: Final Order of the Louisiana State Board of Nursing dated October 22, 2008.

I certify this to be a true copy of the
records on file with the Texas Board
of Nursing.

Date:

Signed:

10-5-09
[Signature]



Louisiana State Board of Nursing

17373 Perkins Road

Baton Rouge, LA 70810

Telephone: (225) 755-7500 Fax: (225) 755-7582

<http://www.lsbns.state.la.us>

March 24, 2009

Texas Board of Nurse Examiners

Attn: Bonnie Krznarich, Investigator

333 Guadalupe, Suite 3-460

Austin, TX 78701

STATE OF LOUISIANA

JEFFERSON PARISH

I, Barbara L. Morvant, Executive Director of the Louisiana State Board of Nursing, do hereby certify that I am Custodian of Records of the Board of Nursing and that the copy of the Final Order pertaining to the matter of **Sharon McMullen Anthony, SS# 434-06-7136**, is a true and correct copy of said documents as they appear among the files and records of this office.

WITNESS by my hand and seal of the Board of Nursing this 24th day of March 2009.

LOUISIANA STATE BOARD OF NURSING

Barbara L. Morvant, MN, RN

BARBARA L. MORVANT, MN, RN
EXECUTIVE DIRECTOR

BOARD SEAL

By

Danielle Smith

Danielle Smith, RN, MSN
Director of Monitoring

Enclosures

BLM/DS/ebs

Louisiana State Board of Nursing

17373 Perkins Road

Baton Rouge, LA 70810

Telephone: (225) 755-7500 Fax: (225) 755-7583

<http://www.lsbnp.state.la.us>

Certified Mail

Return Receipt Requested

July 23, 2008

Sharon McMullen Anthony
9216 Buncombe Road
Bethany, La 71007

Dear Ms. Anthony:

Reference is to the Program Agreement signed with the Recovering Nurse Program, effective March 23, 2006. This agreement allowed that your Louisiana RN license be retained, contingent upon adherence to stipulations, specifically, that you adhere to all stipulations of the Recovering Nurse Program. A review of your file reveals that you are not in compliance with the aforementioned agreement.

On July 8, 2008, the Recovering Nurse Program (RNP) reported that you were out of compliance with stipulations of RNP, in that:

- On March 23, 2008, you entered RNP for sedative/hypnotic dependence after you were terminated from work for diverting IV Benadryl.
- On June 11, 2008, you reported to the Board that you relapsed on Soma that you took from your employer.
- On June 12, 2008, you were sent a new four (4) year agreement with the stipulation that you would need to complete an inpatient evaluation.
- On June 24, 2008, the Board received a list of medications that you had removed from the pharmacy at Forcht Wade Correction Center: (7) 800 mg Ibuprofen, (4) 25 mg Meclizine, (3) 600 mg Mucinex, (2) 50 mg Vistaril, (22) 4 mg Xanax. You were placed on forced leave pending a disciplinary hearing.
- On July 1, 2008, attempts were made to contact you by phone to discuss your plans to comply with agreement.
- On July 8, 2008, you were sent a certified letter notifying you that failure to contact the Board would result in suspension of your license. As of this date there has been no further contact from you. You failed to call in for drug screens since June 12, 2008 and you missed a screen on July 16, 2008.

The Board Agreement provides that failure to comply with the stipulations of RNP will result in the immediate suspension of your license. Therefore, your Louisiana RN license is suspended and you are directed to return your 2008 license immediately to the Board.

YOU ARE TO CEASE AND DESIST IMMEDIATELY THE PRACTICE OF NURSING IN LOUISIANA.

This will be reported to Healthcare Integrity and Protection Data Bank (HIPDB) as F-2 Unable to Practice Safely by Reason of Alcohol or Other Substance Abuse. HIPDB Narrative: On March 23, 2006, RN signed a confidential agreement with the Recovering Nurse Program (RNP) for sedative/hypnotic dependence after she was reported to the Board for diverting IV Benadryl. On June 11, 2008 she reported to the Board that she had relapsed on Soma. RN failed to return for an inpatient evaluation, failed to call in for screens and was subsequently suspended for non-compliance with her RNP agreement.

You are further advised that you should re-enter and remain in full compliance with RNP for a minimum of six (6) months before applying for reinstatement.

If you are able to show error in the staff's action then you must so notify the Board in writing within ten (10) days of this date.

LOUISIANA STATE BOARD OF NURSING

Barbara L. Morvant, MN, RN

Barbara L. Morvant, MN, RN
Executive Director

BLM/ds

cc: Employer
RNP
Facilitator

Louisiana State Board of Nursing

17373 Perkins Road
Baton Rouge, LA 70810

Telephone: (225) 755-7500 • Fax: (225) 755-7582
www.lsbns.state.la.us

October 29, 2008

Ms. Sharon McMullen Anthony
9216 Buncombe Road
Bethany, LA 71007

Re: Board Order

Dear Ms. Anthony:

This is official notification that the recent action taken by staff for suspension of your license was approved and accepted by the Louisiana State Board of Nursing in a regularly scheduled meeting on October 22, 2008.

If you have not returned your current RN license, please do so at this time.

LOUISIANA STATE BOARD OF NURSING

Barbara L. Morvant, MN, RN

Barbara L. Morvant, MN, RN
Executive Director

BLM/lr

Louisiana State Board of Nursing

17373 Perkins Road

Baton Rouge, LA 70810

Telephone: (225) 755-7500 Fax: (225) 755-7583

<http://www.lsbnp.state.la.us>

PROGRAM AGREEMENT

THIS AGREEMENT is made and executed by the below-identified and undersigned registered nurse, registered nurse applicant, or registered nurse student (the "Participant") with the Recovering Nurse Program (the "Program") of the Louisiana State Board of Nursing (the "Board").

Recitals

(a) The Recovering Nurse Program (the "Program") is a program established by the Louisiana State Board of Nursing (the "Board") to identify and assist nurses registered and licensed by the Board whose capacity to practice nursing with reasonable skill and safety to patients has been, or may potentially be, compromised by alcohol or substance abuse or other physical or mental conditions (other physical or mental conditions will require an individual agreement); to enlist the voluntary participation of such nurses in effective rehabilitative medical treatment and ongoing aftercare and monitoring; and to allow for the deferral of formal investigation and administrative prosecution of such nurses under the Louisiana Nursing Practice Law, La. Rev. Stat. 37:911-933.

(b) The Program has reasonable cause to believe that the Participant is or may be suffering from chemical dependency or abuse of alcohol and/or other mood-altering substances, that such dependency or abuse has compromised or may potentially compromise the Participant's capacity to practice nursing with reasonable skill and safety to patients, but that the condition, if any, from which the participant suffers may be susceptible to effective rehabilitative treatment.

(c) The Participant has admitted to being chemically dependent and has agreed to submit to medical and/or psychiatric evaluation as approved by the Program and, if such evaluation confirms a diagnosis of chemical dependency, substance abuse, or other condition which may impair the Participant's capacity to practice nursing with reasonable skill and safety to patients, to voluntarily submit to a course of treatment and to participate in the Program in accordance with the understandings, terms and conditions expressed in this Agreement.

(d) The Participant has been advised of the provisions of the Louisiana Nursing Practice Law, La. Rev. Stat. 37:911-933 and rules and regulations of the Board relative to the sanctions which may be imposed by the Board upon a finding of impairment, and of the participant's rights, pursuant to the Administrative Procedure Act, La. Rev. Stat. 49:950-965, to written notice of allegations and charges, evidentiary hearing on such charges, to be represented therein by an attorney at law of the participant's choosing, and to a decision rendered upon written findings of fact and conclusions of law.

NOW, THEREFORE, in consideration of the mutual covenants and obligations hereinafter expressed, the Participant and the Program hereby covenant, stipulate and agree as follows:

Part 1—Covenants of the Participant

I, Sharon Anthony, voluntarily agree to sign this agreement with the Recovering Nurse Program for the purpose of avoiding formal administrative proceedings with the Louisiana State Board of Nursing.

I freely, knowingly and voluntarily enter into this agreement. I understand that I have a right to a hearing in this matter and I freely waive that right. I understand that I have a right to legal counsel prior to entering into this agreement.

I admit that I am chemically dependent and request admission into the Recovering Nurse Program of the Louisiana State Board of Nursing. I recognize that I am habitually intemperate or addicted to the use of alcohol or habit-forming drugs. I further agree that the Louisiana State Board of Nursing has jurisdiction of this matter pursuant to L.R.S. 37:911 et seq and that this is a violation of the provisions of L.R.S. 37:921. To allow for deferral of formal investigation and administrative prosecution and sanctions, I desire to participate in the Recovering Nurse Program (RNP) and hereby agree to comply with all stipulations of the program as outlined in this Program Agreement.

1.1 Medical Evaluation. Participant will, at Participant's expense, within seven days of the date of this Agreement, or as otherwise specified in the Specifications annexed hereto and incorporated herein as Appendix A (the "Program Specifications"), enter into an inpatient treatment facility (the "Primary Treatment Facility") approved by the Program, as designated in the Program Specifications, for inpatient assessment and diagnostic evaluation.

1.2 Initial Primary Treatment. (Defined as the initial treatment following the evaluation, whether it is inpatient, partial, outpatient or residential). If, upon such medical evaluation Participant is diagnosed to be suffering from chemical dependency, substance abuse, or other condition which may impair the Participant's capacity to practice nursing with reasonable skill and safety to patients, Participant will immediately submit to such inpatient evaluation and treatment and/or continuing outpatient treatment and aftercare thereafter as may be prescribed or recommended by addictionologist and treatment team at the Primary Treatment Facility for not less than the treatment period specified in the Treatment Plan. The Board reserves the right to obtain further evaluations from other medical professionals to ensure public safety. Within 48 hours of Participant's discharge from primary treatment, participant shall give telephonic notice of such discharge to the program.

1.3 Continuing Treatment and Aftercare. Shall confirm discharge in writing to the Program within five days of discharge from treatment. Such written notice shall be accompanied by a copy of the discharge treatment plan or contract prescribed or recommended by the treatment program for Participant's continuing outpatient care and aftercare and a designation of the name, address and telephone number of Participant's primary treating physician for outpatient care and aftercare, which physician shall be knowledgeable in the treatment of chemical dependency. The terms and conditions of any such treatment plan or contract shall be incorporated into, and deemed incorporated in, the Program Specifications, and any such continuing outpatient care and aftercare program shall continue in effect for not less than one year from the date of Participant's discharge from primary treatment or for such other period as may be specified in the Treatment Plan. The Participant will attend weekly continuing care (aftercare) at the Program-approved treatment center specified in the Treatment Plan. If continuing therapy is recommended, therapist must be approved in advance by Board staff.

1.4 Attendance at AA/NA Meetings. Following discharge from primary inpatient treatment, or concurrent with outpatient treatment, Participant will attend Alcoholics Anonymous ("AA") and/or Narcotics Anonymous ("NA") meetings at such location and at such frequency as specified in the Program Specifications annexed hereto. Attendance at facilitated meeting for professional nurses is required if available within forty (40) miles. Within two weeks of discharge from primary inpatient evaluation treatment, or as specified by treatment team, Participant will give notice to the Program upon obtaining AA and/or NA sponsor(s), which will thereupon be incorporated in the Program Specifications. Participant shall submit monthly verification of Participant's attendance at AA/NA meetings, aftercare and facilitated meetings. The cost of attending group is the responsibility of the Participant.

1.5 Urine and Drug Screens. Participant agrees that, during the term of this Agreement, Participant shall be subject and shall voluntarily submit to supervised random drug screens, inclusive of bodily fluids, breath analysis, hair analysis, or any other procedure as may be directed by the Program and/or employer. Random drug screens will be at least 24 times a year for the first year following inpatient treatment or signing of agreement. Thereafter, Participant may request to be evaluated for possible monthly testing. The results of any such testing will be reported directly to the Program. Any and all such testing shall be performed at Participant's expense.

1.6 Employment; Employer's Agreement. The Participant will not return to professional employment, on a full-time or part-time basis, until and unless Participant's addictionologist at the Primary Treatment Facility advises Participant and the Program in writing that, in their professional opinion, the

Participant's prognosis for continued recovery is good and that Participant is capable of practicing nursing with reasonable skill and safety to patients. Participant must have approval from Program and all employment process must be completed prior to returning to work. Before accepting or engaging in professional employment of any kind, whether as an employee or independent contractor and whether on a full-time or part-time basis, the Participant will enter into an agreement with each and any such employer or contractor, in the form and substance prescribed by the Program and incorporated in the Program. The employer's agreement must be completed and returned to the RNP office prior to beginning work.

Specification which shall delineate the terms and conditions of employment relative to administration and documentation of controlled substances, carrying controlled substances keys, permissible times and hours of work, and appropriate restrictions with respect to employment in high-stress areas such as intensive care units and emergency services. During the term of this Agreement, Participant shall not be employed in the provision of home health nursing services or in any other unsupervised setting involving direct patient care.

Must be engaged in the active practice of nursing for a minimum of 24 hours per week for a minimum of 12 months prior to release from RNP.

1.7 Information and Reports. During the term of this Agreement, the Participant will authorize, consent to and cause the following information, reports and notices to be given to the Program, or Board staff, as indicated:

(a) *Consent to Release of Medical Information.* The Participant will execute a written authorization and consent for the disclosure to the Program and its representatives of the records, information and opinions of the Primary Treatment Facility, Participant's attending physician and counselors at such facility relative to the Participant's diagnosis, course of treatment, prognosis, and fitness and ability to practice nursing with reasonable skill and safety to patients.

(b) *Primary Treatment Facility Records.* Within 20 days of discharge from treatment at the Primary Treatment Facility, Participant will authorize and cause such facility and participant's attending physician and counselors at such facility to furnish the Program with a written report on Participant's diagnosis, course of treatment at the facility, prescribed or recommended care and aftercare, and prognosis.

(c) *Primary Treatment Physician Records.* Participant will authorize and cause Participant's primary treating physician to furnish the Program, not less frequently than quarterly during the term of this Agreement, with written report on Participant's diagnosis, course of treatment and prognosis for continuing recovery.

(d) *Contact With, Reports to Program* The Participant shall keep the Program advised of the Participant's current address and employment addresses and telephone numbers, the nature of Participant's employment, and Participant's course of continuing recovery. The Participant shall notify the Program within twenty-four hours of any change in Participant's residence address or employment status or location, and shall furnish written notice of any such change to the Board staff within five days of any such change.

(e) *Contact With, Reports by AA/NA Sponsors.* The Participant will maintain contact with Participant's AA and/or NA sponsor(s) a minimum of once per week. The Board staff may request reports from the sponsor.

(f) *Counselor Progress Reports.* Participant will authorize and cause Participant's counselor(s) at the aftercare treatment center designated in the Treatment Plan to furnish the Program with written reports on Participant's progress. Such reports shall be submitted monthly for 12 months following Participant's discharge from treatment or for the length of aftercare treatment if more than 12 months.

(g) *Employer Nursing Performance Reports.* Within five days of executing any Employer's Agreement as provided by 1.6 hereof, a fully executed copy thereof shall be provided to the Program. The Participant shall thereafter authorize and cause any such employer to furnish the Program with a written Employers Nursing Performance Report. Reports will be at least monthly during the first 18 months after returning to work. Thereafter, Participant may request to be evaluated to possibly progress to bimonthly reporting.

(h) *Recovering Nurse Facilitated Groups.* The Participant shall be assigned to a Recovering Nurse Facilitated Group. The Participant will attend the assigned group weekly. The Participant agrees that attendance, general progress in recovery and any question of relapse or unsafe nursing practice will be reported to the Board staff.

(i) Other forms and records deemed necessary by the program to fulfill the program will be forwarded to the program.

1.8 The Participant shall not have any misconduct, criminal convictions, or violations of any health care regulations reported to the Board related to this or any other incidents. Any such misconduct, convictions or violations could result in disciplinary action.

1.9 **Maintenance of Abstinence.** The Participant shall maintain complete and total abstinence from the use of controlled substances, alcohol or any other mood-altering, addictive or dependency-inducing substance except as may be prescribed for a bona fide medical condition by a treating physician who is knowledgeable in, and aware of Participant's treatment for, chemical dependency. The medication report form should be completed by the physician for any and all medications prescribed for the participant. The form should be forwarded by the physician to the Recovering Nurse Program within five (5) days of the prescription.

1.10 Participant shall, upon request, meet with the Board staff at the Louisiana State Board of Nursing office.

Part 2—Covenants of the Program.

2.1 Statement of Confidentiality.

By participating in the Recovering Nurse Program, I will be privy to certain confidential information regarding the patients/clients involved in the Program.

Any and all information imparted to me during the time I am in this program, and my knowledge of any person or persons in this program, or any of its components, is **STRICTLY CONFIDENTIAL**.

The right of privacy, a right of total confidentiality, is protected by law. The re-disclosure of any information pertaining to another patient and/or their treatment may be in direct violation of Federal Regulations (42 CFR Part 2) and may be punishable by fine or imprisonment or both.

I have read the above statements and understanding that I am responsible for maintaining the confidentiality of all persons participating in this program and agree to make no disclosures of their presence or other information obtained.

This Consent is made and given in conformity with and pursuant to 42 U.S.C. 290dd-2(b) (1) and former 29033(3)(b)(1) and regulations promulgated thereunder, 42 C.F.R. 2.31-33, but is intended to be effective to consent to disclosures authorized herein whether or not the HEALTH CARE PROVIDER is subject to the provisions of 42 C.F.R Part 2.

2.2 **Deferral of Formal Proceedings.** Provided that the Participant satisfies, abides by and maintains strict compliance with the terms, conditions and provisions of this Agreement, pursuant to authority delegated to the Program by the Board, formal investigation of the Participant's impairment and the institution of formal proceedings for sanctions against the Participant's license as a registered nurse under the Nurse Practice Act will be deferred.

2.3 **Confidentiality.** Except as authorized by the participant, in response to inquiry by the nursing licensing authority of another state or by an employer by which the Participant is employed or to which the Participant has applied for employment, or pursuant to the lawful order of a court of competent jurisdiction, the records, files and information of the Program relative to the Participant shall be maintained in confidence and not disclosed to any other person, firm, or entity.

Part 3—General Provisions

3.1 Effective Date, Term of Agreement. This Agreement shall become and be effective on the date on which it is signed by the Participant, provided that it is subsequently accepted and executed by the Program (the "Effective Date"). This Agreement shall thereafter remain in full force and effect for a minimum of 4 years from the date of discharge from primary treatment.

3.2 Effect of Breach. In the event of any breach by the Participant of any of the covenants, obligations, terms, conditions or provisions of this Agreement, all files, records and information in the possession of the program relative to the participant shall be referred to Board's Professional Staff for evaluation under the Nurse Practice Act for proceedings and sanctions against the Participant's RN license. Sanctions may include evaluation and/or signing a new program agreement. The Participant agrees to voluntarily surrender his/her license until such time as he/she can appear before the Board or Board Staff for completion of the disciplinary process.

3.3 Effect of Non-Compliance If participant fails to comply with stipulations of the Recovering Nurse Program, Participant agrees to stop the active practice of nursing until such time as he/she becomes compliant with stipulations of the Program, recommendations from the treatment team and the Board staff. If, within ten days of notice of non-compliance, Participant fails to comply with the stipulations of the Recovering Nurse Program, recommendations of the treatment team and the Board staff, Participant agrees to the summary suspension of his/her license and all files relative to this agreement shall be a public record as provided in L.R.S. 44:4.9.

3.4

In order to avoid further administrative proceedings, I hereby consent to accept and abide by this agreement.

- a. Immediately sign and adhere to a contract with the Recovering Nurse Program (RNP) for a minimum of 4 years and until discharged by the respective treatment team and Board staff.
- b. Cause to have submitted written documents on a timely basis to verify compliance with monitoring specifications of the Recovering Nurse Program.
- c. Not have any misconduct, criminal violations or convictions, or violations of any health care regulations reported to the Board related to this or any other incident.
- d. If non-compliant with stipulations of the Recovering Nurse Program, Participant shall stop the active practice of nursing until such time as compliant with stipulations of the Program, and recommendations of the treatment team and the Board staff.
- e. Further, failure to comply with stipulations of the Recovering Nurse Program within ten (10) days after written notice of non-compliance shall result in the immediate suspension of this Participant's license.
- f. In the event of a second relapse, license shall be automatically suspended, without notice, for a minimum of 6 months.

I, Sharon Anthony, understand that staff have been authorized by the Board to enter into the above agreement. I further understand that this agreement is effective immediately upon signature of the Executive Director or designee.

Dated: _____

Signature of Participant

Dated: _____

Board Staff

"PARTICIPANT" REGISTERED NURSE

(Type or Print)

Name: _____ Reg. Nurse Lic. No. _____

Home Address: _____
Municipal Address, Street Post Office Box

City/Town State Zip Code

Home Telephone: _____ Cell Phone: _____
(Area Code) Number (Area Code) Number

Work Telephone: _____ Email Address: _____
(Area Code) Number

Social Security Number: _____

PROGRAM SPECIFICATIONS

Date _____

1. Shall enter _____ treatment facility for chemical dependency (1.1) on or prior to _____.
2. Shall follow all treatment, continuing care or aftercare recommendations (1.1-1.7) as prescribed.
3. Additional Program Specifications will be outlined and delineated following discharge from treatment and prior to re-entry to practice.

POST-TREATMENT MONITORING SPECIFICATIONS

Date _____

1. Shall not work nights (11P-7A) or more than 40 hours per week for at least 1 year.
2. Shall not carry control substance/narcotics keys or administer same for at least 1 year after returning to work.
3. Shall not work in critical care areas (ICU, CCU, ER, RR, etc.) or work as an APRN for at least 1 year.
4. APRNs shall not have prescriptive authority privileges or be eligible to apply for prescriptive authority for at least 1 year. Must make formal application, have approval by addictionist, no pending criminal charges and Board review prior to reinstatement of prescriptive authority privileges.
 - A. If privileges are reinstated the participant will agree to refrain from prescribing to self or family.
 - B. Shall be eligible to request controlled substances privileges a year after receiving prescriptive authority privileges.
5. Shall work in a restrictive environment as a member of a treatment team rather than alone or with a few employees. Not be employed in agency/staffing/pool, home health services, or nursing homes. Additionally, not be employed in any unsupervised setting involving direct patient care. APRNs shall notify the collaborating physician of participation in RNP.
6. Shall attend 4 (to include aftercare & RNP) AA/NA meetings/week as outlined under 1.4 of this agreement. Attendance Verification Calendar forwarded to RNP office monthly.
7. Shall insure aftercare reports and all reports outlined under 1.7 are forwarded to RNP office monthly. Shall have Board Staff approval for therapist prior to engaging in recommended therapy.
8. Shall submit to random supervised drug screens as described under 1.5 and when there is cause to question abstinence.
9. AA/NA sponsor should be willing to write Board Staff, group facilitator or PR and/or give telephone number to same.
10. Steven Busenbarrick will respond as Group Facilitator.
11. Must have written approval prior to lifting of any restrictions.
12. Additional: _____

Board Staff _____

Participant's Signature _____

Date _____

Date _____

I certify this to be a true copy of the
records on file with the Texas Board
of Nursing.

Date:

Signed:

10-5-09
[Signature]

